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REMARKS

Reconsideration of the above-identified patent application in view of the amendment above and the remarks below is respectfully requested.

Claims 14 and 21 have been canceled in this paper. Claims 7, 10, 13, 15-16 and 19 have been amended in this paper. No new claims have been added in this paper. Therefore, claims 7-13 and 15-20 are pending and are under active consideration.

Claims 7-21 stand rejected under 35 U.S.C. 103(a) "as being unpatentable over Capy et al. (5,590,783) in view of Cooper (5,996,169)." In support of the rejection, the Patent Office states the following:

Capy '783 discloses a snack food assembly comprising: a snack food bag; a snack food disposed within said snack food bag comprising an oily food (chips); a napkin; and an airtight sealed enclosure (see Figure 4 embodiment and column 2, lines 14-15) coupled to said snack food bag, said napkin being disposed within said airtight sealed enclosure. See column 2, lines 37 and 38, column 4, lines 35-39 and Figures 1-5 embodiment. Capy '783 does not appear to teach the napkin to be a moistened towelette. Cooper '169 discloses a snack food assembly in combination with a moistened towelette (25), which is stored in a packet (24) to preserve the towelette[']s moisture and cleanliness until the towelette is ready for use. The moist towelette packet can be attached to any part of the food container with double sided tape, glue or any other method of attachment. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide a moist towelette packet instead of a paper napkin to the snack food container of Capy '738 as taught by Cooper '169 for better cleansing.

With respect to claims 8 and 9, official notice is taken that it is old and conventional to provide a cleansing solution with antibacterial agents to moist[en] towelettes.

With respect to claims 13-16, and the airtight sealed enclosure location, it has been held that rearranging parts of an invention involves only routine skill in the art. *In re Japikse*, 86 USPQ 70.

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With respect to claim 18, the bag of Capy '783 is capable of holding nuts. With respect to claim 19, note the plurality of packaging layers defining first and second sealed compartments as shown in Figure 4 embodiment.

With respect to claim 20, note the airtight sealed enclosure (packet 24).

Insofar as the foregoing rejection pertains to claims 14 and 21, the rejection is moot in view of the cancellation herein of claims 14 and 21. Insofar as the foregoing rejection pertains to claims 7-13 and 15-20, Applicants respectfully traverse the foregoing rejection.

Claim 7, from which claims 8-12 and 17-18 depend, has been amended herein and now recites “[a] snack food assembly comprising:

(a) a snack food bag having a sealed snack food compartment;
(b) a snack food disposed within said sealed snack food compartment, said snack food comprising an oily food selected from the group consisting of chips and nuts;
(c) a moistened towelette; and
(d) an airtight sealed enclosure coupled to said snack food bag, said moistened towelette being disposed within said airtight sealed enclosure.”

Claim 7 is not rendered unpatentable over Capy et al. in view of Cooper for at least the following reasons: First, whereas claim 7 requires, among other things, a snack food bag having a sealed snack food compartment in which chips or nuts are disposed, Capy et al. does not teach or suggest, among other things, a snack food bag having a sealed snack food compartment that holds chips or nuts. Instead, Capy et al. discloses a French fry container having an **unsealed** or **open** pocket in which French fries are held. The aforementioned deficiency of Capy et al. is not cured by

Cooper, which does not even disclose a container that holds chips or nuts, but rather, discloses a beverage can.

Second, whereas claim 7 requires that a moistened towelette be disposed within an airtight sealed enclosure coupled to said snack food bag, Capy et al. does not teach or suggest, among other things, storing a moistened towelette in an **airtight sealed** enclosure. Instead, Capy et al. discloses storing a dry napkin in a fold of a container, the fold having **open** ends to permit the withdrawal of the napkin from the container. (See column 4, lines 29-31 of Capy et al. wherein the embodiment of Fig. 4 is characterized as having free edges 38 and 39 “to permit the withdrawal of the napkin 1 on the one hand....”) As can readily be appreciated, if the napkin of Capy Fig. 4 were placed in a sealed airtight enclosure, it would be exceptionally difficult to gain access to the napkin without destroying the container. Moreover, because, as discussed above, Capy et al. does not disclose an airtight sealed enclosure for its napkin, there would be no reason to replace the Capy napkin with a moistened towelette since a moistened towelette would rapidly dry-out if stored in an unsealed container.

Claim 13, from which claims 15 and 16 depend, has been amended herein and now recites “[a] snack food assembly comprising:

- (a) a snack food bag having a sealed snack food compartment;
- (b) a snack food disposed within said sealed snack food compartment of said snack food bag, said snack food comprising an oily food selected from the group consisting of chips and nuts;
- (c) a moistened towelette; and

(d) an airtight sealed enclosure, said moistened towelette being disposed within said airtight sealed enclosure, said airtight sealed enclosure being disposed within said sealed snack food compartment of said snack food bag.”

Claim 13 is patentable over the applied combination of references for at least the reason that the references, taken individually or in combination, do not teach or suggest a snack food assembly comprising, among other things, a moistened towelette disposed within an airtight sealed enclosure, **said airtight sealed enclosure in turn disposed within a sealed snack food compartment containing chips or nuts.** By contrast, the Capy et al. napkin is disposed in a pocket **separate** from the compartment holding French fries, and the Cooper towelette is disposed in an enclosure **separate** from the beverage containing compartment.

Claim 13 is also patentable over the applied combination of references for the reasons discussed above in connection with claim 7.

Claim 19, from which claim 20 depends, has been amended herein and now recites “[a] snack food assembly comprising:

(a) a snack food bag, said snack food bag comprising a plurality of packaging layers defining first and second sealed compartments;

(b) a snack food disposed within said first sealed compartment of said snack food bag, said snack food comprising an oily food selected from the group consisting of chips and nuts; and

(c) a moistened towelette, said moistened towelette being disposed within said second sealed compartment.”

Claim 19 is patentable over the applied combination of references for at least the reason that the applied references do not teach or suggest a snack food bag comprising first and second sealed

compartments wherein chips or nuts are disposed within the first sealed compartment and a moistened towelette is disposed within the second sealed compartment. Instead, as noted above, Capy et al. discloses a device having an **open** compartment for holding French fries and an **open** compartment for holding a napkin. Cooper, on the other hand, discloses a beverage can that does not contain chips or nuts.

Accordingly, for at least the above reasons, the foregoing rejection should be withdrawn.

In conclusion, it is respectfully submitted that the present application is now in condition for allowance. Prompt and favorable action is earnestly solicited.

If there are any fees due in connection with the filing of this paper that are not accounted for, the Examiner is authorized to charge the fees to our Deposit Account No. 11-1755. If a fee is

required for an extension of time under 37 C.F.R. 1.136 that is not accounted for already, such an extension of time is requested and the fee should also be charged to our Deposit Account.

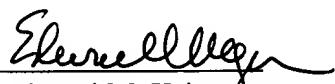
Respectfully submitted,

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I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Mail Stop Fee Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on March 1, 2004.


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